

**No. 23-1078**

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In the  
**United States Court of Appeals**  
for the Fourth Circuit

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**B.P.J.**, by her next friend and mother, **HEATHER JACKSON**,  
*Plaintiff-Appellant*,  
v.  
**WEST VIRGINIA STATE BOARD OF EDUCATION**, *et al.*,  
*Defendants-Appellees*,  
and  
**THE STATE OF WEST VIRGINIA**, *et al.*,  
*Intervenors-Appellees*.

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On Appeal from the United States District Court  
for the Southern District of West Virginia (No. 2:21-cv-00316)

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**MOTION FOR LEAVE TO FILE  
AMICUS BRIEF OF THE TREVOR PROJECT  
IN SUPPORT OF APPELLANT AND REVERSAL**

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## **CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure 26.1, The Trevor Project is a 501(c)(3) organization. The Trevor Project does not have a parent corporation. The Trevor Project is not a publicly traded company, and no publicly held corporation owns 10% or more of its stock.

Pursuant to Federal Rule of Appellate Procedure 29(a), The Trevor Project moves for leave to file an *amicus* brief in support of appellant and reversal.

Counsel for appellant B.P.J. and for appellees the West Virginia State Board of Education, the Harrison County Board Of Education, W. Clayton Burch, Dora Stutler, the State of West Virginia, and Lainey Armistead consent to the filing of this brief. Counsel for appellee West Virginia Secondary School Activities Commission takes no position on this motion and does not intend to file a response.

### **STATEMENT OF INTEREST**

Founded in 1998, The Trevor Project is the nation's largest lesbian, gay, bisexual, transgender, queer, and questioning ("LGBTQ") youth crisis intervention and suicide prevention organization. It is the only nationwide organization that offers accredited, free, and confidential phone, instant message, and text messaging crisis intervention services for LGBTQ youth. These services are used by thousands of individuals each month. Through monitoring, analyzing, and evaluating data obtained from these services, The Trevor Project produces innovative research

that brings new knowledge, with clinical implications, regarding issues affecting LGBTQ youth.

The Trevor Project has a special interest in opposing state actions premised on discrimination against the transgender youth it serves. For decades, The Trevor Project has worked firsthand with transgender youth, many of whom struggle with the pain and stigma of being excluded from participating in school sports consistent with their gender identity. The Trevor Project is therefore acutely aware of the severe mental health effects that discrimination of this form can have on transgender youth, and can provide a unique and important perspective for the Court regarding the potential harm of not granting this preliminary injunction.<sup>1</sup>

### **REASONS FOR PERMITTING THE AMICUS BRIEF**

This case implicates issues at the core of The Trevor Project's mission. Plaintiff challenges provisions of H.B. 3293 that ban all transgender women and girls, as well as many intersex women, from participating in school sports in West Virginia. H.B. 3293, 2021 W. Va. Acts

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<sup>1</sup> No party's counsel authored this brief in whole or in part. No party or party's counsel contributed money that was intended to fund preparing or submitting this brief. No person other than amicus curiae, its members, or its counsel contributed money that was intended to fund preparing or submitting the brief.

ch. 105 (codified at W. Va. Code § 18-2-25d). In addition to its direct discriminatory impact on these athletes, the law sends a message of stigmatization and exclusion to the broader transgender community, with potentially serious mental health consequences for transgender youth. In light of the wide-ranging impacts of the case and the potential for immediate harm to a vulnerable population if the law were enforced, amicus participation is particularly appropriate.

The Trevor Project's perspective and expertise will be useful to the court in resolving this appeal. The attached brief focuses on the deep and lasting harm that government-sanctioned discrimination causes to transgender youth's mental health and wellbeing, with specific attention to the negative effects caused by denying transgender youth the opportunity to participate in sports in a manner consistent with their gender identities. With more than two decades of expertise in promoting the mental health and wellbeing of transgender youth, The Trevor Project offers unique insight into the detrimental effects H.B. 3293 will have on a population that is already the subject of much discrimination.

## CONCLUSION

For the foregoing reasons, The Trevor Project respectfully requests that it be granted leave to file the attached amicus brief in support of appellants and reversal.

April 3, 2023

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**CERTIFICATE OF COMPLIANCE**

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), the undersigned certifies that this motion complies with the applicable typeface, type-style, and type-volume limitations. This motion was prepared using a proportionally spaced type (New Century Schoolbook, 14 point). Exclusive of the portions exempted by Federal Rule of Appellate Procedure 32(f), this motion contains 580 words. This certificate was prepared in reliance on the word-count function of the word-processing system used to prepare this motion.

/s/ Abbey Hudson  
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**CERTIFICATE OF SERVICE**

I hereby certify that on April 3, 2023, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

/s/ Abbey Hudson

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